
Construction Manager as Constructor (CMc) Contract for Repair and Alteration Project at the United States District Courthouse, Pensacola, Florida
The Agreement

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I. Project Information

I.A. Project Summary

This is a Construction Manager as Constructor (CMc) Contract, and includes requirements for the Design Phase Services and the option(s) for Construction Services at a Guaranteed Maximum Price (GMP) Option.

This project will correct the water intrusion issues in the building by replacing the building's façade, replacing the standing seam metal roof system, repairing structural damage to the building caused by the water intrusion, and completely abating the presence of mold created by the water intrusion. The new building envelope will be watertight and meet the State of Florida's Building Code for hurricane requirements. Additionally, the new façade is required to meet Interagency Security Committee (ISC) level IV blast protection criteria. Interior finishes throughout the building damaged by the water intrusion will be repaired or replaced. The project will modernize the outdated fire safety system and the heating ventilating and air conditioning (HVAC) system to include installation of VAV (Variable Air Volume) boxes and a new building automation system (BAS) to better control the interior humidity. The existing restrooms in the building will be upgraded, including the installation of floor drains and the replacement of finishes. New restrooms will be installed on each floor and be compliant with the Architectural Barriers Act Accessibility Standards. The facility's grounds and approaches will be restored after the façade demolition and replacement. The parking lot will be repaved, and waterproofing and drainage will be installed on the site.

Concurrent to this project, the U.S. Marshals Service will be contracting for the design and installation of security devices that are intended to be installed by its contractors during the performance of the larger construction project described in the statement of work. Tenants are expected to return to the building under a phased occupancy.

I.B. The Contract

(1) The Contract consists of the SF 1442, the Agreement, the Statement of Work, Specifications, Drawings, Exhibits, Amendments, Modifications, and other Attachments identified herein (collectively, the Contract Documents). The Contract contains the entire agreement of the Parties, and no prior written or oral agreement, express or implied, shall be admissible to contradict or modify any part of the Contract.

(2) The Construction Documents, as that term is defined in this Agreement, shall be deemed incorporated into the Contract Documents upon acceptance of all deliverables described in the Design Phase Services Statement of Work, and shall supersede and replace all Specifications and Drawings contained in the Contract Documents at award of the Contract.

(3) In consideration for, and upon condition of, the Contractor's completion of the Design Phase Services, GSA shall pay the Contractor the firm-fixed-price for Design Phase Services, subject to the terms and conditions set forth in this Contract. If the GMP Option is exercised, then the Contractor shall be required to complete the Construction Services. The Government will firm fix price the Construction Services at 100% design completion. In consideration for completion of the Construction Services under the GMP Option, the Contractor shall be entitled to the allowable cost of performance not to exceed the GMP, subject to the terms and conditions set forth in this Contract.

(4) The construction work includes all construction work on the project, including the Work performed under the GMP Option, any firm-fixed-price options, or any Contract modifications for construction work. Any construction work performed under this Contract includes all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution of the construction work described in and reasonably inferable from the Contract Documents, whether temporary or permanent.

I.C. Period of Performance**(1) Design Phase Services**

(a) *Commencement of Design Phase Services.* The Contractor shall commence performance of the Design Phase Services within 10 days after the Contractor receives the Notice to Proceed (NTP).

(b) *Completion of Design Phase Services.* Design Phase Services shall be complete upon acceptance of all deliverables required by the Design Phase Services Statement of Work.

(2) Construction Services (the Work)

(a) *Commencement of the Work.* If the Government exercises the GMP Option, the Contractor shall commence performance of the construction within 10 days after the Contractor receives the Notice to Proceed (NTP) for the Work.

(b) *Substantial Completion.* If the Government exercises the GMP Option, the Contractor shall achieve Substantial Completion of the Construction Phase Work, as that term is defined in this Agreement, no later than September 30, 2019.

(3) *Contract Completion.-Construction Services.* If the Government exercises the GMP Option, the Contractor shall achieve Contract Completion, as the term is defined in this Agreement, within 60 calendar days of Substantial Completion.

I.D. Work Conditions/Site Requirements

In accordance with the Statement of Work.

I.E. Authorized Representative

(1) This Contract is between the United States of America, acting by and through the Administrator of General Services (GSA), and the Contractor (the Parties). References in this

Contract to "the Owner" or "the Government" shall be understood to refer to GSA. The following

individual is designated as the only authorized GSA representative under this Contract unless other warranted contracting officers are designated in writing:

Contracting Officer

Name: Michael Reece
Address: 77 Forsyth Street
Atlanta, GA 30303
Telephone 404-215-8756
Email: michael.reece@gsa.gov

(2) GSAR 552.236-71, Authorities and Limitations, is incorporated by reference in this Contract.

I.F. Liquidated Damages Rate

In accordance with the "Liquidated Damages" clause in Section III (Terms and Conditions), liquidated damages shall be calculated at the rate of \$7,214.20 per calendar day.

I.G. Buy American Exceptions

For the applicable Buy American clause and any exceptions, see Section IV of this Agreement.

I.H. Statement of Work, Specifications, Drawings, Exhibits, and Other Attachments

The following documents are incorporated by reference into this Contract:

(1) Statement of Work , Dated May 24, 2017

II. Prices

II.A. Basis of Pricing

(1) *Contract Prices.* All Contract prices set forth in this Section include all costs, including, but not limited to the cost of work performed by subcontractors and consultants, indirect costs, fees, expenses, taxes, and profit, necessary to complete the Design Phase Services (Base Contract), and firm-fixed-price options for construction work, if any, in accordance with the Contract Documents. For pricing information regarding the GMP Option, see Paragraph IV.A., *Construction Manager as Constructor (CMc) Guaranteed Maximum Price with CMc Contingency Allowance and Shared Savings.*

(2) *Knowledge of Conditions Affecting Price.* FAR 52.236-3, Site Investigations and Conditions Affecting the Work, is incorporated by reference in this Contract. The Contractor is presumed to have established all prices with knowledge of general and local conditions that may affect the cost of Contract performance at the site where the Work is to be performed, to the extent that such information is reasonably obtainable.

(3) *Unit Prices and Allowances.* If any portion of the construction work is to be performed on a

unit price basis (Unit Priced Work), the unit price established in the Contract shall include all costs of coordinating and incorporating the Unit Price Work into the construction work. The Contractor shall only be obligated to perform Unit Priced Work to the extent that an allowance has been established in an amount sufficient to compensate the Contractor for such Unit Priced Work at the established unit prices. The Contractor shall be obligated to perform such work in excess of a unit quantity for which an Allowance is sufficient only if directed by the Contracting Officer in writing. The Contractor shall be bound to the unit price or prices set forth herein in all equitable adjustments for changes including unit priced work, and no markups shall be applied to such unit prices.

(4) *Firm-fixed-price Options.* If any portion of the construction work is to be performed upon the timely exercise of a firm-fixed-price option, the option price shall include all costs of coordinating and incorporating such work into the remaining construction work. An adjustment to the Contract price for such additional work shall be computed solely on the basis of the option price or prices set forth herein.

(5) *Work Packages.* The Contractor and the Government may agree to develop firm-fixed-price early work packages for construction work that stand alone from the remainder of the Work. The Parties must agree bilaterally to the scope, schedule and pricing for any such work package, and Contract must be modified accordingly. If such work package reduces the scope of the Construction Services under the GMP Option, the Estimated Cost of the Work (ECW) shall be reduced, and the CMc Contingency Allowance (CCA), Fee and GMP shall be adjusted accordingly. These early work packages become definitive firm-fixed-price line items in the Contract, and they shall include specific completion milestones.

(6) *Bid Rates.* If this Contract includes Bid Rates to be used in determination of equitable adjustments (e.g., overhead, profit, daily rates for time-related costs), such rates shall be deemed to include all costs recoverable as components of an equitable adjustment consistent with the requirements, definitions, and exclusions applicable to equitable adjustments set forth in this Contract, and consistent with the Contractor's cost accounting practices. Unless otherwise specified, the bid rates shall be deemed to include only the Contractor's costs, and not the costs of any subcontractors.

(7) *Shared Savings.* The Contractor shall be entitled to 50% of any Shared Savings (see *Paragraph IV.A., Construction Manager as Constructor (CMc) Guaranteed Maximum Price with CMc Contingency Allowance and Shared Savings.*

II.B. Contract Price Form

[\[See Page 4 of SF 1442.\]](#)

III. Terms and Conditions

III.A. Definitions

- (1) "Design Phase" means the phase of the Project during which the design is developed and completed.
- (2) "Design Phase Services" means design phase construction management services, constructability reviews and other related services as described in the Statement of Work.
- (3) "Construction Documents" mean the 100% complete specifications and construction drawings developed during the Design Phase.
- (4) "Work" means the Construction Services under the GMP Option.

III.B. Contractor Responsibilities

- (1) During the Design Phase Services, it is the Contractor's responsibility to familiarize itself with all design information (e.g., draft specifications, drawings, etc.) provided for its review. The Contractor shall be responsible for satisfying itself that the Project as described in the design information is constructible using commercially practicable means and methods; that the construction work is described in the design documents with sufficient completeness to enable pricing of a complete Project within the GMP; and that the manner of presentation and organization of information in the design documents enables accurate estimation of the Cost of the Work. Prior to establishment of the final ECW, the Contractor shall bring to the Contracting Officer's attention all instances that it has discovered or has been made aware of where omission of design information affects the Contractor's ability to accurately estimate the Cost of the Work.
- (2) The Contractor is responsible for performing the Design Phase Services in accordance with the Statement of Work, and the Contractor shall submit to the Contracting Officer all deliverables and reports in accordance with the Statement of Work.
- (3) The Contracting Officer has sole discretion to accept or reject all or part of any proposal by the Contractor related to design.
- (4) Within 30 days after award, the Contractor shall provide a schedule for the Design Phase Services in Gantt chart format indicating tasks and milestones for deliverables.
- (5) Commencement, Prosecution, and Completion of Work

FAR 52-211-10, Commencement, Prosecution, and Completion of Work, is supplemented as

follows:

Upon exercise of the GMP Option or issuance of a modification commencing construction work, the Contractor shall not commence performance until the Contracting Officer has issued NTP for the Work. The Contractor shall diligently prosecute the construction work so as to achieve Substantial Completion within the time specified in Paragraph I.C. of the Agreement. If this Contract specifies different completion dates for different phases or portions of the construction work, the Contractor shall diligently prosecute the Work so as to achieve Substantial Completion of such phases or portions of the Work within the times specified.

(6) For the purposes of FAR 52.236-1, Performance of Work by the Contractor, the Contractor shall perform at least 12 percent of the construction work. The Contractor shall furnish the Contracting Officer within 10 days after the award of the construction option, a letter outlining the items of work he will perform with his own forces

(7) Unless otherwise expressly stated in the Contract, the Contractor shall be responsible for all means and methods employed in the performance of the Contract.

(8) The Contractor shall be responsible for coordinating all activities of subcontractors. This responsibility includes coordination of: preparation of shop drawings produced by different subcontractors where their work interfaces or may potentially conflict or interfere and the installation of such work; scheduling of work by subcontractors; and use of the Project site for staging and logistics.

(9) Where installation of separate construction work components as shown in the Contract Documents will result in conflict or interference between such components or with existing conditions, including allowable tolerances, it is the Contractor's responsibility to bring such conflict or interference to the attention of the Contracting Officer and seek direction before fabrication, construction, or installation of any affected construction work. If the Contractor fabricates, constructs, or installs any work prior to receiving such direction, the Contractor shall be responsible for all cost and time incurred to resolve or mitigate such conflict or interference.

(10) The Contractor must submit a project specific safety plan before commencing construction work.

(11) Where Drawings show construction work without specific routing, dimensions, locations, or position relative to other work or existing conditions, and such information is not specifically defined by reference to Specifications or other information supplied in the Contract Documents, the Contractor is responsible for routing, dimensioning, and locating such work in coordination with other work or existing conditions in a manner consistent with Contract requirements.

(12) It is not the Contractor's responsibility to ensure that the Contract Documents comply with applicable laws, statutes, building codes and regulations. If it comes to the attention of the Contractor that any of the Contract Documents do not comply with such requirements, the Contractor shall promptly notify the Contracting Officer in writing. If the Contractor performs any of the construction work prior to notifying and receiving direction from the Contracting Officer, the Contractor shall assume full responsibility for correction of such work, and any fees or penalties that may be assessed for non-compliance.

(13) The Contractor shall immediately bring to the Contracting Officer's attention any hazardous materials or conditions not disclosed in the Contract Documents discovered by or made known to the Contractor during the performance of the Contract

(14) The Contractor shall be liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of services furnished under this Contract. Neither the Government's review or acceptance of, nor payment for, the design services required under this Contract shall be construed as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract.

III.C. Contractor Management and Personnel

(1) The Contractor shall designate a principal of the firm or other senior management official to provide executive oversight and problem resolution resources to the Project for the entire life of the Contract, including the GMP Option.

(2) FAR 52.236-6, Superintendence by the Contractor, is supplemented as follows:

(a) The Contractor shall employ sufficient management and contract administration resources, including personnel responsible for project management, field superintendence, change order administration, estimating, coordination, inspection, and quality control, to ensure the proper execution and timely completion of the construction work.

(b) The Contractor shall employ, and require its subcontractors to employ, qualified personnel to perform the construction work. The Government reserves the right, at no additional cost to the Government, to exclude, or remove from the site or building, any personnel for reasons of incompetence, carelessness, or insubordination, who violate rules and regulations concerning conduct on federal property, or whose continued employment on the site is otherwise deemed by the Government to be contrary to the public interest.

(c) Repeated failure or excessive delay by the Contractor to provide qualified personnel shall be deemed a default for the purposes of the Termination for Default clause.

III.D. Project Schedules

(1) The Contractor shall develop a Design Phase Project Schedule to plan, coordinate, and perform the services during the design phase. This schedule shall be produced using widely used, commercially available computer software such as Microsoft Project,®. The schedule will be coordinated with the Architect's schedule of design submissions and show milestones for completion of Design Reviews and cost reconciliation. It will also include a milestone for establishing the ECW for the construction option.

(2) The Contractor shall use a Critical Path Method ("CPM") Construction Project Schedule to plan, coordinate, and perform the Work under the GMP Option. The Construction Project Schedule shall be produced using widely used, commercially available computer software that is capable of generating and monitoring a CPM schedule and is compatible with Meridian Proliance.® For example, compatible software includes Microsoft Project,® Primavera SureTrak,® and Primavera Project Planner.®

(3) The Construction Project Schedule, (hereinafter, the Project Schedule) shall be a rational, reasonable and realistic plan for completing the Construction Phase and shall conform to requirements specified in this clause and elsewhere in this Contract.

(4) The Contractor understands and acknowledges that the preparation and proper management of the Project Schedule is a material component of the Work, and that the Contract price includes all costs of compliance with Project Schedule requirements.

(5) The Project Schedule shall depict all activities necessary to complete the Construction Phase, including, as applicable, all submittal and submittal review activities, all procurement activities, and all field activities, including mobilization, construction, start-up, testing, balancing, commissioning, and punchlist. Activities shall be sufficiently detailed and limited in duration to enable proper planning and coordination of the Work, effective evaluation of the reasonableness and realism of the Project Schedule, accurate monitoring of progress, and reliable analysis of schedule impacts.

(6) Within 30 days after establishing the final ECW, the Contractor shall submit its Project Schedule to the Contracting Officer, together with a written narrative describing the major work activities, activities on the critical path, and major constraints underlying the sequence and logic of the Project Schedule. The Contractor shall submit the Project Schedule in both electronic and hardcopy print format.

(7) The Contractor should anticipate that the Project Schedule will be subject to review and revision and the Contractor shall devote sufficient resources for meetings, revisions, and resubmissions of the Project Schedule to address exceptions taken by the Contracting Officer. The Contractor understands and acknowledges that the purpose of the review and resolution of exceptions is to maximize the usefulness of the Project Schedule for the Parties during Contract performance.

(8) Activity durations shall be based upon reasonable and realistic allocation of the resources required to complete each activity, given physical and logistical constraints on the performance of the Work. All logic shall validly reflect physical or logistical constraints on relationships between activities. Except for the first and last activities in the Project Schedule, each activity shall have at least one predecessor and one successor relationship to form a logically connected network plan from NTP to the Contract Completion date.

(9) The Project Schedule shall incorporate milestone events specified in the Contract, including, as applicable, NTP, Substantial Completion, and milestones related to specified work phases and site restrictions. The Project Schedule shall also include Contractor-defined milestones to identify target dates for critical events, based upon the Contractor's chosen sequence of work.

(10) Unless a shorter period for updates is specified elsewhere, the Contractor shall update the Project Schedule monthly to reflect its actual progress in completing the Work, and submit the updated Project Schedule to the Contracting Officer within five working days of the end of each month or other specified period.

(11) If the Contractor revises the Project Schedule after the commencement of Work, the Contractor shall provide in writing to the Contracting Officer a narrative describing the substance

of the revision, the rationale for the revision, and the impact of the revision on the projected Substantial Completion date and the available float for all activities. The Contractor shall only revise prospective activities, durations and logic, but addition of detail to prospective activities shall not be deemed a revision if the overall duration of the detailed activity does not change.

(12) If at any time the Contracting Officer finds that the Project Schedule does not comply with any Contract requirement, the Contractor shall, upon written notice of exceptions taken by the Contracting Officer, revise the Project Schedule, adjust activity progress, or provide sufficient information demonstrating compliance. Regardless of whether the Contracting Officer takes any such exception, the Contractor shall not be relieved of its responsibility for the rationality, reasonableness or realism of the Project Schedule, or its responsibility to achieve Substantial Completion within the time specified by this Contract.

(13) If the Contractor fails to sufficiently address the Contracting Officer's exceptions to the Project Schedule within thirty calendar days of written notice of same, the Contracting Officer may withhold retainage until the Project is Substantially Complete or until such time as the Contractor has complied with Project Schedule requirements.

(14) The Contracting Officer shall be entitled, but not required, to rely upon the Project Schedule to evaluate the Contractor's progress, evaluate entitlement to extensions of time and determine the criticality or float of any activities described in such Project Schedule.

III.E. Extensions of Time

FAR 52.211-13, Time Extensions, is supplemented as follows:

(1) If the Contractor requests an extension of the time for Substantial Completion, the Contractor shall base its request on analysis of time impact using the Project Schedule as its baseline, and shall propose as a new Substantial Completion date to account for the impact. The Contractor shall submit a written request to the Contracting Officer setting forth facts and analysis in sufficient detail to enable the Contracting Officer to evaluate the Contractor's entitlement to an extension of time.

(2) The Contractor shall only be entitled to an extension of time to the extent that (a) Substantial Completion of the Work is delayed by causes for which the Contractor is not responsible under this Contract, and (b) the actual or projected Substantial Completion date is later than the date required by this Contract for Substantial Completion.

(3) The Contractor shall not be entitled to an extension of time if the Contractor has not updated the Project Schedule in accordance with this Contract.

(4) The Government shall not be liable for any costs to mitigate time impacts incurred by the Contractor that occur less than 30 calendar days after the date the Contractor submits a request for extension of time in compliance with this clause.

III.F. Interpretation of Specifications and Drawings

FAR 52.236-21, Specifications and Drawings for Construction, and GSAR 552.236-77,

Specifications and Drawings are supplemented as follows:

- (1) For the purposes of FAR 52.236-21, GSAR 552.236-77 and this section ("Interpretation of Specifications and Drawings"), specifications and drawings refer only to the Construction Documents.
- (2) Different requirements within the Contract Documents shall be deemed inconsistent only if compliance with both cannot be achieved.
- (3) Unless otherwise noted, the drawings shall be interpreted to provide for a complete construction, assembly, or installation of the Work, without regard to the detail with which material components are shown in the drawings.

III.G. Submittals

FAR 52.236-21, Specifications and Drawings for Construction, GSAR 552.236-78, Shop Drawings, Coordination Drawings, and Schedules, and GSAR 552.236-79, Samples are supplemented as follows:

- (1) During performance of the construction work, the Contractor shall prepare and submit to the Contracting Officer shop drawings, samples, calculations, product information, mockups, and other submittals (collectively, "submittals") demonstrating compliance with Contract requirements for all work components as specified elsewhere in this Contract. If particular submittal requirements are not specified for a component of the work, the Contractor shall prepare submittals for such work as directed by the Contracting Officer.
- (2) The Contractor shall not proceed with construction work or procure products or materials described or shown in submittals until the Contracting Officer has indicated approval of the submittal. Any work or activity undertaken prior to approval shall be at the Contractor's risk; should the Contracting Officer subsequently determine that the work or activity does not comply with the Contract, the Contractor shall be responsible for all cost and time required to comply with the Contracting Officer's determination. The Contracting Officer shall have the right to order the Contractor to cease execution of construction work for which submittals have not been approved. The Government shall not be liable for any cost or delay incurred by the Contractor attributable to the proper exercise of this right.
- (3) The Contractor shall be entitled to receive notice of action on submittals within a reasonable time, given the volume or complexity of the submittals and the criticality of the affected activities to Substantial Completion as may be indicated in the Project Schedule; provided, that the Contractor shall not be entitled to receive notice of action on submittals containing variations from Contract requirements in less than twenty (20) business days.

III.H. Substantial Completion and Contract Completion

FAR 52.211-10, Commencement, Prosecution, and Completion of Work, FAR 52.211-12, Liquidated Damages (Construction), and GSAR 552.246-72, Final Inspection and Tests, are supplemented as follows:

- (1) For the purposes of FAR 52.211-10, Commencement, Prosecution and Completion of Work, and FAR 52.211-12, Liquidated Damages (Construction) the "Work" is the Work under the GMP Option. The Work shall be deemed complete when it is "Substantially Complete." For phased construction, each phase is subject to a separate Substantial Completion date, as established in this Contract. The Work shall be deemed "Substantially Complete" if and only if the Contractor has completed the Work and related Contract obligations in accordance with the Contract Documents, such that the Government may enjoy the intended access, occupancy, possession, and use of the entire Work without impairment due to incomplete or deficient work, and without interference from the Contractor's completion of remaining work or correction of deficiencies in completed work. In no event shall the Work be deemed Substantially Complete if all fire and life safety systems are not tested and accepted by GSA, where such acceptance is required under the Contract.
- (2) With reasonable advance notice, the Contractor shall submit to the Contracting Officer a written proposal recommending a Substantial Completion date (Notice of Substantial Completion). The Contracting Officer shall conduct inspections and make a determination of Substantial Completion within a reasonable time. If the Contracting Officer takes exception to the Notice of Substantial Completion, the Contractor shall be entitled to a written notice of conditions precluding determination of Substantial Completion.
- (3) The Contractor shall only be entitled to an extension of time to address such conditions if, and to the extent that, the Contracting Officer provides notice of such conditions more than thirty (30) calendar days after receipt of the Notice of Substantial Completion.
- (4) Substantial Completion shall be established by the Contracting Officer's issuance of a written determination specifying the date upon which the Work is Substantially Complete.
- (5) The Contract is complete (Contract Completion) if and only if the Contractor has completed all Work and related Contract obligations, corrected all deficiencies and all punch list items, and complied with all conditions for final payment.
- (6) The Contractor shall not be entitled to final payment or release of any retainage held by the Government until after Contract Completion. If the Contractor does not achieve Contract Completion within the time required by this Contract, the Government shall be entitled, after providing notice to the Contractor, to complete any work remaining unfinished. The Contractor shall be liable to the Government for all costs incurred by the Government to complete such work.

III.I. Use and Possession Prior to Substantial Completion

FAR 52.236-11, Use and Possession Prior to Completion, is supplemented as follows:

Exercise by the Government of the right conferred by FAR 52.236-11 shall not relieve the Contractor of responsibility for completing any unfinished components of the Work.

III.J. Finality of Contract Modifications

It is the Contractor's duty to include in proposals for equitable adjustment or other consideration

all compensation to which it may be entitled, including cost and time. Unless otherwise explicitly stated in a modification to the Contract providing for such an adjustment, adjustments to the ECW or GMP or period of performance agreed upon therein shall be deemed to provide all adjustment to which the Contractor is entitled, and shall constitute final settlement of the Contractor's entitlement to adjustment on account of the change or other condition giving rise to the modification.

III.K. Liquidated Damages

FAR 52.211-12, Liquidated Damages, is supplemented as follows:

- (1) The Contractor acknowledges that time is of the essence for the performance of the Work, and that determining actual damages from delay would be extremely difficult and impractical. If the Contractor fails to achieve Substantial Completion of the Work within the time specified in this Contract, the Contractor shall be liable to the Government for liquidated damages at the rate specified in Section I (Project Information), paragraph entitled, "*Liquidated Damages Rate*," for each calendar day following the required completion date that the Work is not Substantially Complete.
- (2) If the Contract requires different completion dates for different phases or portions of the Work, the Contractor shall be liable for liquidated damages at the specified rate for each calendar day following the required completion date that the phase or portion of Work is not Substantially Complete. If a single rate is specified, the specified rate shall be apportioned between the different phases or portions of the Work.
- (3) If the Government elects to accept any portion of the Work not specifically designated as a phase or portion of Work with its own required completion date, the liquidated damage rate shall be apportioned between accepted work and uncompleted work, and the Contractor's liability for liquidated damages shall be computed accordingly.

III.L. Insurance Requirements

- (1) The Contractor shall obtain and maintain for the entire life of the Contract, in addition to any insurance required by law, the following minimum kinds and amounts of insurance required pursuant to FAR clause 52.228-5, Insurance – Work on a Government Installation and GSAR 552.228-5, Government as Additional Insured.
 - (a) Workers' compensation insurance in the amount required by the jurisdiction in which the Contract is performed. The Contractor shall obtain Employers' liability coverage of at least \$2,000,000. If occupational diseases are not covered by workers' compensation insurance, Employers' liability coverage shall include occupational diseases.
 - (b) Broad form comprehensive commercial general liability insurance in the amount of at least \$5,000,000 per occurrence. Such insurance shall include, but not be limited to, contractual liability, bodily injury and property damage.
 - (c) Comprehensive automobile liability covering the operation of all automobiles used in connection with performing the Contract in the amount of at least \$1,000,000 per person and

\$2,500,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage.

(2) The Contractor shall promptly provide to the Contracting Officer proof that it has obtained insurance required by the Contract in the form of certificates of insurance. The Contractor shall submit to the Contracting Officer all renewal certificates issued during the life of this Contract immediately upon issuance.

III.M. Performance and Payment Bonds

FAR 52.228-15, Performance and Payment Bonds – Construction, is supplemented as follows:

- (1) "Original Contract Price" means the GMP established at award of this Contract.
- (2) The Contractor shall furnish required performance and payment bonds within 14 calendar days of exercise of the GMP Option.
- (3) Receipt by the Government of required performance and payment bonds is a condition precedent to issuance of the NTP.

III.N. Order of Precedence

Different requirements within this Contract shall be deemed inconsistent only if compliance with both cannot be achieved. In case of inconsistency between Contract Documents, the following order of precedence shall apply:

- (1) Section IV of the Agreement
- (2) Sections I, II, and III of the Agreement
- (3) The Statement of Work
- (4) The Specifications
- (5) The Drawings
- (6) Exhibits and Other Attachments

III.O. Administrative Matters

(1) *Project Meetings.* The Contractor shall attend and participate in regularly scheduled Project meetings.

(2) *Design Phase Services Payments.* Within 30 days of award, the CMc will submit a payment schedule for design phase services which reflect the design reviews and various deliverables in the Design Phase schedule for approval. Progress Payments during the design phase will be based on the approved schedule.

(3) *Schedule of Values.* Within 30 days after the Contract is modified to incorporate a final ECW, the Contractor shall submit for approval a schedule of values for the Work. The schedule of values for the Work will include a cost breakdown of the final ECW, assigning values to each

component of the Work. Values must include all direct and indirect costs, although a separate value for bond costs may be established. The schedule of values must be reconciled monthly with the open books for actual costs allocated.

(4) *Payments.* The Government shall make progress payments based upon the Design Phase Services Payment Plan and the Schedule of Values for the Work, as applicable. All payments will be credited to the Government in the establishment of the Final Settlement. Requirements for invoices are supplemented as follows:

(a) Before submitting a request for payment, the Contractor shall attend preinvoice payment meetings each month, as scheduled, with the designated Government representative for the purpose of facilitating review and approval of payment requests. Payment meetings may be conducted in person or by telephone. The Contractor shall provide documentation to support the prospective payment request.

(b) The Contractor shall submit its invoices to the Contracting Officer. Separate payment requests shall be submitted for progress payments, payments of retainage, and partial or final payments.

(c) If the invoice does not meet the requirements of FAR Clause 52.232-27 (a)(2) and the requirements specified in Subparagraphs (4)(a),(d),(e), and (f) of this *Payments* provision, the Contracting Officer may return the invoice to the Contractor without payment for correction. If the Contracting Officer disputes the requested payment amount, the Government may pay the portion of the requested payment that is undisputed.

(d) Invoices shall be submitted in an original and two (2) copies to the designated billing office specified in this Contract or in individual delivery/work orders.

(e) Invoices must include the Account Document Number (ADN) assigned at award.

(f) The Contractor shall submit the following information or documentation with each invoice:

(i) For construction payments, GSA Form 184 - Construction Progress Report (construction work Only) or AIA Form G702, including the updated Schedule of Values upon which the payment request is based;

(ii) For construction payments, GSA Form 2419 - Certification of Progress Payments Under Fixed-Price Construction Contract;

(iii) For other payments including design phase payments, the invoice must identify deliverables and services rendered for that progress payment in accordance with the contract;

(iv) The payment terms that apply for the particular services rendered;

(v) Additional documentation:

(g) GSA will not be obligated to issue final payment unless the Contractor has furnished to the Contracting Officer a release of claims against the Government relating to this Contract, and submitted all required product warranties, as-built drawings, operating manuals, and other items as specified in the Contract. The Contractor may reserve from the release specific claims only if such claims are explicitly identified with stated claim amounts. All release forms must bear the original signature of the signer and must be affixed with the Contractor's corporate seal or the seal of a Notary Public.

(5) *Prompt Payment.* In accordance with FAR clause 52.232-27, the period for payments is as follows:

(a) Progress Payments: 14 days

(6) *Payment Information.* The General Services Administration (GSA) makes information on contract payments available electronically at <http://www.finance.gsa.gov>. The Contractor may register at the site and review its record of payments. This site provides information only on payments made by GSA, not by other agencies.

(7) *Security Clearances.* Contractor shall comply with the following requirements pertaining to security clearances.

(a) All personnel performing work under the Contract on the Project site must obtain an Enter on Duty (EOD) determination before they will be granted access to the site.

(b) To obtain an EOD determination, Contractor shall submit for all such personnel fingerprints on Form SF87 and a completed Contractor Information Worksheet (CIW). Detailed information is available at <http://www.gsa.gov/portal/category/107203>. USAccess Credentialing Centers can be located at <http://www.fedidcard.gov/centerlist.aspx>

(c) In addition, all such personnel who will be on site 6 months or longer must apply for and receive clearance in accordance with Homeland Security Presidential Directive 12 (HSPD-12). See Section IV, *Contract Clauses*, GSAR 552.204-9.

(8) *Safeguarding and Dissemination of Sensitive But Unclassified (SBU) Building Information.* This clause applies to all recipients of SBU building information, including offerors, bidders, awardees, contractors, subcontractors, lessors, suppliers and manufacturers.

(a) Marking SBU. Contractor-generated documents that contain building information must be reviewed by GSA to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the Contracting Officer (CO) may direct the contractor, as specified elsewhere in this contract, to imprint or affix SBU document markings to the original documents and all copies, before any dissemination.

(b) Authorized recipients.

(i) Building information designated SBU must be protected with access strictly controlled and limited to those individuals having a legitimate business need to know such information. Those with a need to know may include Federal, State and local government entities, and

nongovernment entities engaged in the conduct of business on behalf of or with GSA. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, utilities, and others submitting an offer or bid to GSA, or performing work under a GSA contract or subcontract. Recipient contractors must be registered as “active” in the System for Award Management (SAM) database at www.sam.gov and have a legitimate business need to know such information. If a subcontractor is not registered in the SAM and has a need to possess SBU building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license. The contractor shall keep this information related to the subcontractor for the duration of the contract and subcontract.

(ii) All GSA personnel and Contractors must be provided SBU building information when needed for the performance of official Federal, State, and local government functions, such as for code compliance reviews and for the issuance of building permits. Public safety entities such as fire and utility departments may require access to SBU building information on a need to know basis. This clause must not prevent or encumber the dissemination of SBU building information to public safety entities.

c. Dissemination of SBU building information:

(i) By electronic transmission. Electronic transmission of SBU information outside of the GSA network must use session encryption (or alternatively, file encryption). Encryption must be via an approved NIST algorithm with a valid certification, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules per GSA policy.

(ii) By nonelectronic form or on portable electronic data storage devices. Portable electronic data storage devices include, but are not limited to CDs, DVDs, and USB drives. Nonelectronic forms of SBU building information include paper documents, among other formats.

1) By mail. Contractors must utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

2) In person. Contractors must provide SBU building information only to authorized recipients with a need to know such information. Further information on authorized recipients is found in Section 2 of this clause.

d. Record keeping. Contractors must maintain a list of all entities to which SBU is disseminated, in accordance with sections 2 and 3 of this clause. This list must include at a minimum: (1) the name of the State, Federal, or local government entity, utility, or firm to which SBU has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the SBU building information, with access strictly controlled and limited to those individuals having a legitimate business need to know such information; (3) contact information for the named individual; and (4) a description of the SBU building information provided. Once “as built” drawings are submitted, the contractor must collect all lists

maintained in accordance with this clause, including those maintained by any subcontractors and/or suppliers, and submit them to the CO. For Federal buildings, final payment may be withheld until the lists are received.

e. Safeguarding SBU documents. SBU building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a legitimate business need to know such information. GSA contractors and subcontractors must not take SBU building information outside of GSA or their own facilities or network, except as necessary for the performance of that contract. Access to the information must be limited to those with a legitimate business need to know.

f. Destroying SBU building information. When no longer needed, SBU building information must be destroyed so that marked information is rendered unreadable and incapable of being restored, in accordance with guidelines provided for media sanitization within GSA CIO IT Security 06-32, Media Sanitization Guide and Appendix A of NIST Special Publication 800-88, Guidelines for Media Sanitization. Alternatively, SBU building information may be returned to the CO.

g. Notice of disposal. The contractor must notify the CO that all SBU building information has been returned or destroyed by the contractor and its subcontractors or suppliers in accordance with paragraphs 4 and 6 of this clause, with the exception of the contractor's record copy. This notice must be submitted to the CO at the completion of the contract to receive final payment. For leases, this notice must be submitted to the CO at the completion of the lease term. The contractor may return the SBU documents to the CO rather than destroying them.

h. Incidents. All improper disclosures of SBU building information must be immediately reported to the CO at <insert address and contact information> . If the contract provides for progress payments, the CO may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of SBU building information. Progress payments may also be withheld for failure to comply with any provision in this clause until the contractor provides a corrective action plan explaining how the contractor will rectify any noncompliance and comply with the clause in the future.

i. Subcontracts. The contractor and subcontractors must insert the substance of this clause in all subcontracts.

III.P. Non-Compliance with Contract Requirements

In the event the Contractor, after receiving written notice from the Contracting Officer of non-compliance with any requirement of this Contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, the Contracting Officer shall have the right to order the Contractor to stop any or all work under the Contract until the Contractor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time. The Contractor will not be entitled to any extension of Contract time or payment for any costs incurred as a result of being ordered to stop work for such cause.

III.Q. Safeguarding Sensitive Data and Information Technology Resources

In accordance with FAR 39.105, this section is included in the contract. This section applies to all users of sensitive data and information technology (IT) resources, including awardees, contractors, subcontractors, lessors, suppliers and manufacturers. The following GSA policies must be followed. These policies can be found at <http://www.gsa.gov/directives>.

1. CIO P 2100.1 GSA Information Technology (IT) Security Policy
2. CIO P 2100.2B GSA Wireless Local Area Network (LAN) Security
3. CIO 2100.3B Mandatory Information Technology (IT) Security Training Requirement for Agency and Contractor Employees with Significant Security Responsibilities
4. CIO 2104.1A GSA Information Technology IT General Rules of Behavior
5. CIO 2105.1 B GSA Section 508: Managing Electronic and Information Technology for Individuals with Disabilities
6. CIO 2106.1 GSA Social Media Policy
7. CIO 2107.1 Implementation of the Online Resource Reservation Software
8. CIO 2160.4 Provisioning of Information Technology (IT) Devices
9. CIO 2162.1 Digital Signatures
10. CIO P 2165.2 GSA Telecommunications Policy
11. CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information (PII)
12. CIO 2182.2 Mandatory Use of Personal Identity Verification (PIV) Credentials
13. CIO P 1878.2A Conducting Privacy Impact Assessments (PIAs) in GSA
14. CIO IL-13-01 Mobile Devices and Applications
15. CIO IL-14-03 Information Technology (IT) Integration Policy
16. HCO 9297.1 GSA Data Release Policy
17. HCO 9297.2B GSA Information Breach Notification Policy
18. ADM P 9732.1 D Suitability and Personnel Security

The contractor and subcontractors must insert the substance of this section in all subcontracts.

III.R. Apprenticeship Plans – Not Applicable**III.S. Equal Employment Opportunity Plan – Not Applicable****IV. Contract Clauses****IV.A. Public Buildings Service (PBS) Contract Clauses**

- (1) Construction Manager as Constructor (CMc) Guaranteed Maximum Price with Construction Contingency Allowance and Shared Savings, PBS CMc Class Deviation (2009), Clause (April 2012).

(a) *General.* Pricing for the Guaranteed Maximum Price for the Option for Construction Services shall be subject to the requirements below:

(b) *Definitions.* The following definitions shall apply to this clause:

(i) "Cost of Performance" means the final sum of Cost of the Work and Fee.

(ii) "Costs" means allowable direct costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this Contract; marked up costs paid to subcontractors shall be deemed direct costs of the Contractor.

(iii) "Estimated Cost of the Work" (ECW) means the estimated direct cost of the construction work.

(c) *Guaranteed Maximum Price.* This Contract is awarded at a Guaranteed Maximum Price (GMP), which equals the sum of the ECW, the CMc Contingency Allowance (CCA) and the Fee. The proposed ECW incorporated into the Contract at award is a target ECW; a final ECW is negotiated during the Design Phase Services and is incorporated into the Contract prior to exercise of the GMP Option. The final ECW must be equal to or less than the target ECW. The CCA is 3% of the ECW, and the Fee is a fixed amount for all indirect costs, including general conditions, and profit.

(d) *Final Estimated Cost of the Work.*

(i) *Submission Requirements for Final ECW Proposal.* During the Design Phase, and at a time agreed by the Contracting Officer, the Contractor shall submit the following:

(1) A detailed statement of all firm-fixed-price work packages in the performance of the Construction Work to date;

(2) A proposed final ECW;

(3) Sufficient data to support the accuracy and reliability of the estimate;

(4) An explanation of the difference between the proposed final ECW and the target ECW used to establish the GMP; and

(5) The Contractor's affirmation that:

(A) It has satisfied itself that the Project as described in the specifications and construction drawings is constructible using commercially practicable means and methods;

(B) It has satisfied itself that the Work has been sufficiently described to enable it to estimate the Cost of the Work with reasonable accuracy;

(C) It has disclosed to the Contracting Officer all of its actual knowledge relating to omissions of design information that may affect the Cost of the Work; and

(D) It acknowledges that the final ECW and time established for completion shall not be adjusted on account of cost or time attributable to discovered omissions of design information required to be disclosed under this Clause.

(ii) *Establishment of the Final ECW.* The Parties shall negotiate a final ECW

based on the data provided under Paragraph (d) of this Section; provided, that the final ECW, CCA and Fee may not exceed the GMP established in the Contract. If the proposed final ECW is less than the target ECW, the GMP shall be reduced accordingly. The final ECW shall be established and incorporated into the Contract by bilateral modification upon the Contracting Officer's written acceptance of the final negotiated ECW. The Contracting Officer shall not accept a final ECW proposal that does not include the written affirmation described in this Clause.

(e) The Government shall not exercise the option for Construction Work unless the final ECW has been established as set forth in the Contract.

(f) *Adjustment of ECW and GMP.* The ECW and GMP shall be subject to adjustment for changes and any other conditions giving rise to entitlement to an adjustment under this Contract. The ECW and GMP shall be adjusted down for deletions to the scope of the Construction Services.

(g) *Conversion to Firm-fixed-price Prior to Final Settlement.*

(i) *Submission Requirements for Conversion to a Firm-Fixed Price.* If the Parties agree to negotiate and establish a firm-fixed-price for the Construction Work prior to the exercise of the GMP Option, or at the request of the Contracting Officer, the Contractor shall submit the following:

(1) A proposed firm-fixed-price proposal for the completion of the Work, which shall include all markups, including profit.

(2) A detailed statement of any Costs incurred in the performance of the Work up to date.

(ii) *Establishment of Firm-Fixed-Price Contract*

(1) *Prior to Exercise of GMP Option.* The Parties may negotiate and establish a firm-fixed-price for the Work prior to the exercise of the GMP Option based on the data provided under Paragraph (g)(1); provided that the firm-fixed-price shall not exceed the GMP. The Contracting Officer shall have the right, but not the obligation, to exercise the GMP Option at the firm-fixed-price within 120 calendar days of the establishment of such price.

(2) *After Exercise of the GMP Option.* At any time prior to final settlement, the Contracting Officer may request that the Contractor provide a firm-fixed-price proposal for the completion of the Work in accordance with Paragraph (g)(1). Within 60 calendar days of such request, the Contractor shall provide such data. Within 60 calendar days of receipt of the Contractor's proposal, the Contracting Officer shall have the right, but not the obligation, to convert the Contract to a firm-fixed-price Contract at the proposed fixed price or as otherwise negotiated by the Parties; provided that the firm-fixed-price, plus any costs incurred in the performance of the Work, shall not exceed the GMP. If the Contract is not converted to firm-fixed-price Contract, then the Final Settlement of the Contractor's compensation shall be determined in accordance with paragraph (h).

(iii) *Payments.* If this Contract is converted to a firm-fixed-price Contract, the Contractor shall submit a revised schedule of values for the Work allocating the unpaid

balance of the fixed price to the itemized work activities remaining uncompleted, which shall be the basis for remaining progress payments.

(h) *Final Settlement.* The Final Settlement amount shall consist of the Cost of Performance and the Contractor's Shared Savings, if any; provided that in no event shall the Final Settlement exceed the GMP. The Final Settlement amount shall be the Contractor's total compensation due under the Contract.

(i) *Submission Requirements for Final Settlement Proposal.* The Contractor shall submit a Final Settlement Proposal within 120 days of substantial completion to determine the Cost of the Work, which shall include the following:

(1) A detailed statement of all Costs incurred by the Contractor in performing the Work;

(2) A firm-fixed-price proposal for the performance of the remaining work, if any, that may be necessary to complete performance of the Work;

(3) An executed Release of Claims, which must describe any and all exceptions, including a description of any outstanding claims; and

(4) Any other relevant data that the Contracting Officer may reasonably require.

(ii) *Determination of the Cost of the Work.* The Cost of the Work shall be the sum of all Costs incurred by the Contractor in performing the Work, the proposed fixed price for performance of remaining work, if any, less the residual value of any Contractor retained inventory. In order to determine the Cost of the Work, the Contracting Officer may require an audit of the Contractor's records and/or the Contractor's Proposal. Establishment of the Cost of the Work shall be subject to negotiation between the Government and the Contractor. In the event that the Parties are unable to reach agreement, the Contracting Officer may unilaterally determine the Cost of the Work, and such determination shall be subject to the clause titled "Disputes."

(iii) *Determination of the Shared Savings.* If the Cost of Performance is equal to or greater than the GMP, the Contractor is not entitled to any additional compensation. If the cost of Performance is less than the GMP, the Contractor is entitled to the specified percentage, if any, of the difference between the GMP and the Cost of Performance, as Shared Savings.

(i) *Subcontracts.* No subcontract placed under this Contract may provide for cost-plus-a-percentage of cost. Any costs incurred by the Contractor as a result of such a subcontract shall not be included in the Cost of the Work or the Final Settlement.

(j) *Open Book Access.* At any time prior to converting the Contract to a firm fixed price, the Government and its representatives, including designated auditors and accountants, shall have the right, but not the obligation, to attend any and all project meetings and shall have access to any and all records maintained by the Contractor relating to the Project. The Contractor shall include this requirement for Open Book Access by the Government in its subcontracts for the Project.

(k) *Termination.* If this Contract is terminated, the Contractor shall not be entitled to Shared Savings.

(2) Accounting Records Clause

(a) The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall meet Generally Accepted Accounting Principles (GAAP) and provide for the following:

- (i) There is proper segregation of direct costs and indirect costs.
- (ii) There is proper identification and accumulation of direct costs by Contract.
- (iii) There is a labor time distribution system that charges direct and indirect labor appropriately.

(b) The Government and the Government's accountants or Government's authorized representative shall be afforded access to and shall be permitted to audit and copy the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Project, and the Contractor shall preserve these for a period of three years after the final payment, or for such longer period as may be required by law.

(c) The records subject to audit, examination, and copying include, but are not limited to, accounting records, written policies and procedures, subcontract files (including all proposals from all bidders, and bid recaps, etc.), estimates and takeoff sheets, correspondence, change order files (including all proposals and estimates, supporting documentation, and documentation covering negotiated pricing regardless of whether the work was performed on a lump-sum, cost plus, or unit price basis), backcharge logs and related supporting documentation, general ledger entries detailing cash and trade discounts, insurance rebates, and discounts, purchase orders, leases, contracts, commitments, notes, daily diaries, superintendents reports, drawings, and all other documents and sources of information and matters which may, in the Government's sole discretion, have any bearing on, or pertain to any matters, rights, duties, obligations related to the Contract Documents (all of the above hereinafter referred to as "Records").

The foregoing Records shall be subject to inspection and audit by the Government or its authorized representative for, but limited to evaluating and verifying: (1) Contractor compliance with Contract requirements; (2) Compliance with pricing Change Orders, invoices, Applications for Payment, or claims submitted by the Contract Manager or any of its Subcontractors at any tier, vendors and suppliers. In addition, Records subject to audit and examination shall also include those records necessary to evaluate and verify all direct and indirect costs, including overhead and payroll tax and fringe benefit allocations, as they may apply to costs associated with the Contract.

(d) If requested by the Government, the Contractor shall promptly deliver to the Government or its designee copies of all Records related to the Project, in a form acceptable to the Government. The Contractor shall provide to the Government or its authorized

representative such Records maintained in an electronic format in a computer readable format on data disks or suitable alternative computer data exchange formats.

(e) The Contractor shall include similar provisions in its Subcontractor Agreements which require the Subcontractor and Sub-subcontractor to keep Records and to permit audits by the Government as is required of the Contractor.

(f) The Government shall have access to the Contractor's facilities, shall be allowed to interview all current and former employees to discuss matters pertinent to the Contract, and shall have access to all necessary Records and to be provided adequate work space, in order to conduct audits and examinations.

(g) If any audit or examination of the Contractor's Records discloses total findings resulting in overpricing or overcharges by the Contractor to the Government in excess of one-quarter percent of the total Contract billings, the Contractor shall immediately reimburse the Government for the overcharges. The Contractor shall also reimburse the Government for the costs of the audit unless otherwise agreed to by the Government and the Contractor.

(h) The Government shall be entitled to audit all modifications, including lump-sum modifications, to determine whether the proposed costs, as represented by the Contractor and any of its Subcontractors, are in compliance with the Contract. If it is determined that the costs proposed under a modification, including lump-sum modifications, are not in compliance with the Contract, the Government reserves the right to adjust the amount previously approved and included in the modification.

(i) If the Contractor fails to comply with any conditions in the Accounting Records Clause, the Government is entitled to withhold up to 10% from each payment request submitted by the Contractor until such deficiencies are corrected.

(j) These requirements regarding accounting records shall not mitigate, lessen nor change any other requirements in the Contract regarding audits, payment submissions, records, or records retention.

IV.B. Clauses Incorporated In Full Text

(1) FAR 52.222-99 Establishing a Minimum Wage for Contractor (JUL 2014) (DEVIATION)

This clause implements Executive Order 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors, dated June 12, 2014.

(a) Each service employee, laborer, or mechanic employed in the United States (the 50 states and the District of Columbia) in the performance of this contract by the prime Contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the Contractor and service employee, laborer, or mechanic, shall be paid not less than the applicable minimum wage under Executive Order 13658. The minimum wage required to be paid to each service employee, laborer, or mechanic performing work on this contract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour.

(b) The Contractor shall adjust the minimum wage paid under this contract each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all service employees, laborers, or mechanics subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor website). The applicable published minimum wage is incorporated by reference into this contract.

(c) The Contracting Officer will adjust the contract price or contract unit price under this clause only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The contracting Officer shall consider documentation as to the specific costs and workers impacted in determining the amount of the adjustment.

(d) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (c) of this clause, and will not provide price adjustments under this clause that result in duplicate price adjustments with the respective clause of this contract implementing the Service Contract Labor Standards statute (formerly known as the Service Contract Act) or the Wage Rate Requirements (Construction) statute (formerly known as the Davis Bacon Act).

(e) The Contractor shall include the substance of this clause, including this paragraph (e) in all subcontracts.

(2) FAR 52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (SEPT 2013)

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless—

(1) The product cannot be acquired—

- (i) Competitively within a time frame providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

- (i) Spacecraft system and launch support equipment.
- (ii) Military equipment, i.e., a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at <http://www.biopreferred.gov>.

(c) In the performance of this contract, the Contractor shall—

(1) Report to <http://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

(2) Submit this report no later than—

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance.

(3) FAR 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-designated Items (MAY 08)

(a) *Definitions.* As used in this clause—

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this Contract, shall—

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to the Contracting Officer.

(4) GSAR 552.204-9 Personal Identity Verification Requirements (OCT 2012)

(a) The contractor shall comply with GSA personal identity verification requirements, identified at <http://www.gsa.gov/hspd12>, if contractor employees require access to GSA controlled facilities or information systems to perform contract requirements.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have access to a GSA-controlled facility or access to a GSA-controlled information system.

(5) GSAR 552.252-6 Authorized Deviations in Clauses (Deviation FAR 52.252-6) (SEP 99)

(a) Deviations to FAR clauses.

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of “(DEVIATION)” after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition

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Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of “(DEVIATION (FAR clause no.))” after the date of the clause.

(b) Deviations to GSAR clauses. This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of “(DEVIATION)” after the date of the clause.

(c) “Substantially the same as” clauses. Changes in wording of clauses prescribed for use on a “substantially the same as” basis are not considered deviations.

(6) Buy American Requirements

52.225-11 Buy American—Construction Materials under Trade Agreements (Oct 2016)

(7) Additional Clauses

52.230-2 Cost Accounting Standards (Oct 2015)

52.230-3 Disclosure and Consistency of Cost Accounting Practices (Oct 2015)

52.230-6 Administration of Cost Accounting Standards (June 2010)

FAR 52.223-21, FOAMS (Jun 2016)

FAR 52.222-62, Paid Sick Leave under Executive Order 13706

IV.C. Clauses Incorporated by Reference

The following FAR/GSAR clauses are supplemented in the Section III, Terms and Conditions: 52.21110, 52.21112, 52.21113, 52.2285, 52.228-15, 52.2325, 52.23227, 52.2361, 52.2366, 52.23611, 52.23621, 552.228-5, 552.23677, 552.23678, 552.23679 and 552.24672.

(1) FAR 52.252-2, Clauses Incorporated by Reference (Feb 1998)

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The full text of a clause may also be accessed electronically at this address:

<http://www.acquisition.gov/comp/far/index.html>

(2) Federal Acquisition Regulation (FAR) clauses:

NUMBER	TITLE	DATE
52.202-1	Definitions	NOV 13

GSA Solicitation No.	GSA Contract No. GS-04-P-17-BV-C-0008	
52.203-3	Gratuities	APR 84
52.203-5	Covenant Against Contingent Fees	MAY 14
52.203-6	Restrictions on Subcontractor Sales to the Government	SEP 06
52.203-7	Anti-Kickback Procedures	MAY 14
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	MAY 14
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	MAY 14
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	OCT 10
52.203-13	Contractor Code of Business Ethics and Conduct	APR 10
52.203-14	Display of Hotline Poster(s) (If Contract is Greater than \$5 Million or Performance Period is Greater than 120 Days)	DEC 07
52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights	APR 14
52.204-2	Security Requirements	AUG 96
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	MAY 11
52.204-7	System for Award Management	JUL 13
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 11
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	JUL 13
52.204-13	System for Award Management Maintenance	JUL 13
52.204-14	Service Contract Reporting Requirements (Applies to contracts estimated total value of \$500,000 or greater)	JAN 14
52.204-18	Commercial and Government Entity Code Maintenance	NOV 14
52.204-19	Incorporation by Reference of Representations and Certifications	DEC 14
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	AUG 13
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	JUL 13
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations	DEC 14
52.211-10	Commencement, Prosecution, and Completion of Work	APR 84

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52.211-12	Liquidated Damages—Construction	SEP 00
52.211-13	Time Extensions	SEP 00
52.215-2	Audit and Records-Negotiation	OCT 10
52.215-10	Price Reduction for Defective Cost or Pricing Data	AUG 11
52.215-11	Price Reduction for Defective Cost or Pricing Data—Modifications	AUG 11
52.215-12	Subcontractor Cost or Pricing Data	OCT 10
52.215-13	Subcontractor Cost or Pricing Data—Modifications	OCT 10
52.215-15	Pension Adjustments and Asset Reversions	OCT 10
52.215-17	Waiver of Facilities Capital Cost of Money	OCT 97
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions	JUL 05
52.215-19	Notification of Ownership Changes	OCT 97
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns	OCT 14
52.219-8	Utilization of Small Business Concerns	OCT 14
52.219-9	Small Business Subcontracting Plan	OCT 14
	Alternate II (If Contractor Submitted Plan With Offer)	OCT 01
52.219-16	Liquidated Damages—Subcontracting Plan	JAN 99
52.219-28	Post-Award Small Business Program Rerepresentation	JUL 13
52.222-3	Convict Labor	JUN 03
52.222-4	Contract Work Hours and Safety Standards—Overtime Compensation	MAY 14
52.222-6	Construction Wage Rate Requirements	MAY 14
52.222-7	Withholding of Funds	MAY 14
52.222-8	Payrolls and Basic Records	MAY 14
52.222-9	Apprentices and Trainees	JUL 05
52.222-10	Compliance with Copeland Act Requirements	FEB 88
52.222-11	Subcontracts (Labor Standards)	MAY 14
52.222-12	Contract Termination—Debarment	MAY 14

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52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations	MAY 14
52.222-14	Disputes Concerning Labor Standards	FEB 88
52.222-15	Certification of Eligibility	MAY 14
52.222-21	Prohibition of Segregated Facilities	APR 15
52.222-26	Equal Opportunity	APR 15
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 15
52.222-35	Equal Opportunity for Veterans	JUL 14
52.222-36	Equal Opportunity for Workers with Disabilities	JUL 14
52.222-37	Employment Reports on Veterans	JUL 14
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 10
52.222-50	Combating Trafficking in Persons	MAR 15
52.222-54	Employment Eligibility Verification	AUG 13
52.222-55	Minimum Wages Under Executive Order 13658	DEC 14
52.223-3	Hazardous Material Identification and Material Safety Data Alternate I	JAN 97 JUL 95
52.223-5	Pollution Prevention and Right-to-Know Information	MAY 11
52.223-6	Drug-Free Workplace	MAY 01
52.223-15	Energy Efficiency in Energy-Consuming Products	DEC 07
52.223-17	Affirmative Procurement of EPA-designated Items in Service and Construction Contracts	MAY 08
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	AUG 11
52.224-1	Privacy Act Notification	APR 84
52.224-2	Privacy Act	APR 84
52.223-19	Compliance with Environmental Management Systems	MAY 11
52.225-13	Restrictions on Certain Foreign Purchases	JUN 08
52.227-1	Authorization and Consent	DEC 07
52.227-2	Notice and Assistance Regarding Patent and Copyright	DEC 07
52.227-4	Patent Indemnity—Construction Contracts	DEC 07

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52.228-2	Additional Bond Security	OCT 97
52.228-5	Insurance—Work on a Government Installation	JAN 97
52.228-11	Pledges of Assets	JAN 12
52.228-12	Prospective Subcontractor Requests for Bonds	MAY 14
52.228-14	Irrevocable Letter of Credit	NOV 14
52.228-15	Performance and Payment Bonds—Construction	OCT 10
52.229-3	Federal, State, and Local Taxes	FEB 13
52.232-5	Payments under Fixed-Price Construction Contracts	MAY 14
52.232-17	Interest	MAY 14
52.232-23	Assignment of Claims	MAY 14
52.232-27	Prompt Payment for Construction Contracts	MAY 14
52.232-33	Payment by Electronic Funds Transfer—System for Award Management	JUL 13
52.232-39	Unenforceability of Unauthorized Obligations	JUN 13
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	DEC 13
52.233-1	Disputes	MAY 14
	Alternate I	DEC 91
52.233-3	Protest after Award	AUG 96
52.233-4	Applicable Law for Breach of Contract Claim	OCT 04
52.236-1	Performance of Work by the Contractor	APR 84
52.236-2	Differing Site Conditions	APR 84
52.236-3	Site Investigation and Conditions Affecting the Work	APR 84
52.236-5	Material and Workmanship	APR 84
52.236-6	Superintendence by the Contractor	APR 84
52.236-7	Permits and Responsibilities	NOV 91
52.236-8	Other Contracts	APR 84
52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	APR 84

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52.236-10	Operations and Storage Areas	APR 84
52.236-11	Use and Possession Prior to Completion	APR 84
52.236-12	Cleaning Up	APR 84
52.236-13	Accident Prevention Alternate I	NOV 91
52.236-14	Availability and Use of Utility Services	APR 84
52.236-17	Layout of Work	APR 84
52.236-21	Specifications and Drawings for Construction	FEB 97
52.242-1	Notice of Intent to Disallow Costs	APR 84
52.242-3	Penalties for Unallowable Costs	MAY 01
52.242-13	Bankruptcy	JUL 95
52.242-14	Suspension of Work	APR 84
52.243-4	Changes	JUN 07
52.244-6	Subcontracts for Commercial Items	APR 15
52.245-1	Government Property Alternate 1	APR 12
52.245-9	Use and Charges	APR 12
52.246-12	Inspection of Construction	AUG 96
52.246-21	Warranty of Construction	MAR 94
52.249-2	Termination for Convenience of the Government (Fixed-Price) Alternate I	APR 12 SEP 96
52.249-10	Default (Fixed-Price Construction)	APR 84
52.253-1	Computer Generated Forms	JAN 91

(3) GSA Acquisition Regulation (GSAR) clauses:

NUMBER	TITLE	DATE
552.203-71	Restriction on Advertising	SEP 99
552.211-72	References to Specifications in Drawings	FEB 96
552.215-70	Examination of Records by GSA	FEB 96

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552.219-75	GSA Mentor-Protégé Program	SEP 09
552.219-76	Mentor Requirements and Evaluation	MAR 12
552.227-70	Government Rights (Unlimited)	MAY 89
552.228-5	Government As Additional Insured	MAY 09
552.229-70	Federal, State, and Local Taxes	APR 84
552.236-70	Definitions	APR 84
552.236-71	Authorities and Limitations	APR 84
552.236-74	Working Hours	APR 84
552.236-75	Use of Premises	APR 84
552.236-76	Measurements	APR 84
552.236-77	Specifications and Drawings	SEP 99
552.236-78	Shop Drawings, Coordination Drawings, and Schedules	SEP 99
552.236-79	Samples	APR 84
552.236-80	Heat	APR 84
552.236-82	Subcontracts	APR 84
552.243-71	Equitable Adjustments	JAN 09
552.246-72	Final Inspection and Tests	SEP 99

IV.D. Subcontract Requirements

The Contractor is advised that many FAR, GSAR and other Agreement clauses are required to be flowed down to subcontracts. Clauses containing flow down requirements include, but may not be limited to, those listed below. The Contractor is responsible for ensuring that all necessary flow-down clauses are included in all subcontracts.

(1) FAR Clauses:

NUMBER	TITLE	DATE
	Applicable Buy American Clause (See Buy American Requirements under "Clauses Incorporated in Full Text" in Section IV)	
52.203-7	Anti-Kickback Procedures	MAY 14

GSA Solicitation No.	GSA Contract No. GS-04-P-17-BV-C-0008	
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	MAY 14
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	OCT 10
52.203-13	Contractor Code of Business Ethics and Conduct	APR 10
52.203-14	Display of Hotline Poster(s) (If Contract is Greater than \$5 Million or Performance Period is Greater than 120 Days)	DEC 07
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 11
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	JUL 13
52.204-14	Service Contract Reporting Requirements (Applies to contracts estimated total value of \$500,000 or greater)	JAN 14
52.215-2	Audit and Records-Negotiation	OCT 10
52.215-12	Subcontractor Cost or Pricing Data	OCT 10
52.215-13	Subcontractor Cost or Pricing Data—Modifications	OCT 10
52.215-15	Pension Adjustments and Asset Reversions	OCT 10
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions	JUL 05
52.222-4	Contract Work Hours and Safety Standards—Overtime Compensation	MAY 14
52.222-6	Construction Wage Rate Requirements	MAY 14
52.222-7	Withholding of Funds	MAY 14
52.222-8	Payrolls and Basic Records	MAY 14
52.222-9	Apprentices and Trainees	JUL 05
52.222-10	Compliance with Copeland Act Requirements	FEB 88
52.222-11	Subcontracts (Labor Standards)	MAY 14
52.222-12	Contract Termination—Debarment	MAY 14
52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations	MAY 14
52.222-14	Disputes Concerning Labor Standards	FEB 88

GSA Solicitation No.	GSA Contract No. GS-04-P-17-BV-C-0008	
52.222-15	Certification of Eligibility	MAY 14
52.222-21	Prohibition of Segregated Facilities	APR 15
52.222-26	Equal Opportunity	APR 15
52.222-27	Affirmative Action Compliance Requirements for Construction	APR 15
52.222-35	Equal Opportunity for Veterans	JUL 14
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52.222-37	Employment Reports on Veterans	JUL 14
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52.222-54	Employment Eligibility Verification	AUG 13
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52.223-6	Drug-Free Workplace	MAY 01
52.223-15	Energy Efficiency in Energy-Consuming Products	DEC 07
52.223-17	Affirmative Procurement of EPA-designated Items in Service and Construction Contracts	MAY 08
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving	AUG 11
52.223-19	Compliance with Environmental Management Systems	MAY 11
52.225-13	Restrictions on Certain Foreign Purchases	JUN 08
52.227-1	Authorization and Consent	DEC 07
52.228-5	Insurance—Work on a Government Installation	JAN 97
52.236-13	Accident Prevention Alternate I	NOV 91

(2) GSA Acquisition Regulation (GSAR) clause(s):

NUMBER	TITLE	DATE
552.215-70	Examination of Records by GSA	FEB 96

(3) Agreement Clause(s):

(i) *Sensitive But Unclassified (SBU) Building Information* under “Administrative Matters” in

Section III (Terms and Conditions).

(ii) In accordance with CAS clauses 52.230-2 and 52-230-3 include the substance of the CAS clause in all NEGOTIATED subcontracts unless the subcontractor meets one of the CAS exemptions (e.g., small business, the subcontract will not be subject to CAS).